

REMARKS/ARGUMENTS

Reconsideration of this application in light of the above amendments and following comments is courteously solicited.

The examiner has objected to the specification as failing to provide proper antecedent basis for the claimed subject matter of dependent claims 74 and 75.

With respect to dependent claim 74, Applicants submit that paragraph [0033] of the previously filed Substitute Specification provides proper antecedent basis for the claimed subject matter of claim 74. Accordingly, Applicants respectfully request the examiner to withdraw the objection to the specification with respect to dependent claim 74.

With respect to dependent claim 75, support for claim 75 is found in originally filed dependent claim 34 of the PCT application. Applicants have amended the specification in paragraph [0034] to include the subject matter disclosed in original claim 34. It is respectfully submitted that the specification as amended provides proper antecedent basis for dependent claim 75.

The examiner has raised a number of objections with respect to claims 37, 40 and 73. Claims 37, 40 and 73 have been amended so as to overcome the examiner's stated objections.

The examiner rejected claims 74 and 75 under 35 U.S.C. 112, first paragraph. It is submitted that claims 74 and 75, as amended are enabled by the Substitute Specification of the instant application as amended above. Paragraph [0033] provides enablement for the subject matter of claim 74 and originally filed PCT claim 34 provides enablement for the subject matter of amended claim 75. In light of the foregoing, it is submitted

that all of the claims comply with the formal requirements of 35 U.S.C. 112, first paragraph.

The examiner has rejected claims 43, 46, 55-58, 64-67, 70, 74 and 75 under 35 U.S.C. 112, second paragraph.

Claims 43 and 46 have been amended so as to depend directly from dependent claim 37 thereby rendering the examiner's rejection of same under 35 U.S.C. 112, second paragraph moot.

Dependent claims 55-57 have been amended to overcome the examiner's rejection of same under 35 U.S.C. 112, second paragraph.

Claim 64 has been amended so as to overcome the examiner's rejection under 35 U.S.C. 112, second paragraph.

Claim 70 has been amended so as to clearly indicate that the preparation is cast into a rotary spindle mechanism of a pencil in the form of a stick. It is respectfully submitted that paragraph [0033] of the instant specification provides proper support for dependent claim 70. It is further submitted that one of ordinary skill in the art is intimately familiar with rotary spindle mechanisms for pencils. It is submitted that claim 70 complies with the formal requirements of 35 U.S.C. 112, second paragraph.

Dependent claim 74 has been amended to set forth casting into a rotary mechanism of a pencil to form a lead. Thus, claim 74 sets forth that the preparation is cast into the rotary mechanism of a pencil to form a lead. It is submitted that claim 74 as amended complies with 35 U.S.C. 112, second paragraph. Dependent claim 75 has been amended in a similar manner and likewise is believed to comply with 35 U.S.C. 112, second paragraph.

In light of the foregoing amendments and comments, it is submitted that all of the claims as pending comply with the formal requirements of 35 U.S.C. 112, both first and second paragraphs.

The examiner rejected independent claim 36 over a variety of prior art references. As to how these rejections apply to claim 36 as amended herein, they are respectfully traversed.

Claim 36 has been amended so as to clearly set forth that the oil phase consists of a mixture of vegetable-based raw materials. Thus, the oil phase is made up solely of vegetable-based raw materials. No other constituents are present in the oil phase of the preparation. Each and every one of the cited and applied prior art references have an oil phase which include additional compounds other than vegetable-based raw materials. GB '170 comprises 2, 3-di-t-butyl hydroquinone which is derived from a synthetic source. U.S. '182 has an oil phase which includes C₃₀-C₄₀-Alkyl methicone which is derived from a synthetic source. Calello '859 discloses an oil phase which includes cyclomethicone, straight or branched chain paraffinic hydrocarbons having 5 to 20 carbon atoms all of which are derived from synthetic sources. Koulbanis '895 discloses an oil phase which includes Lanolin and Triethanolamin which are derived from synthetic sources. U.S. '261 contains lanolin-derivatives. Cohen '915 contains cyclomethicone. U.S. '567 includes cyclopentasiloxane which is derived from a synthetic source. U.S. '811 includes copolymers in the oil phase which are derived from synthetic sources. The Johnson(Lipstick) article discloses on Page 2 that the oils used in lipstick include mineral oil, lanolin, etc. These ingredients are not vegetable-based raw

materials. U.S. '828 discloses benzophenone derived from a synthetic source. Finally, U.S. '754 discloses allantoin which is derived from a synthetic source. Claim 36 requires that the oil phase consists of a mixture of vegetable-based raw materials. The language "consisting of" does not leave the claim open for other non-vegetable-based raw materials and thus, claim 36 as amended, defines over the cited and applied prior art.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

It is submitted that the claims as amended herein patentably define over the art relied on by the Examiner and early allowance of same is courteously solicited.

If any fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

Respectfully submitted,

By /Gregory P. LaPointe #28395/
Gregory P. LaPointe
Attorney for Applicants
Reg. No.: 28,395

Telephone: 203-777-6628
Telefax: 203-865-0297

Date: March 27, 2008